

**EXHIBIT 1 TO DEFENDANTS'  
MOTION *IN LIMINE* REGARDING  
BILL KOOPMANS' NOTES**

EXHIBIT

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

CONVERGYS INFORMATION :  
MANAGEMENT GROUP, INC., :  
AND CHUBB CUSTOM :  
INSURANCE COMPANY, :

Plaintiffs :

-v- : Case No. CV-01-618  
: (Judge Beckwith)

IGATE CORPORATION, et al., :

Defendants :

- 0 -

The deposition of **WILLIAM P. KOOPMANS**, taken before Melea E. Chaney, Court Reporter and Notary Public in and for the State of Ohio, at the law offices of Ulmer & Berne, 600 Vine Street, Suite 2800, Cincinnati, Ohio, on the 12th day of February, 2004, beginning at the hour of 9:23 a.m. and ending at the hour of 6:09 p.m. of the same date.

- 0 -

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APPEARANCES:

FOR THE PLAINTIFFS: ROBERT D. SHANK, Esq.  
Attorney at Law  
2200 PNC Center  
201 East Fifth Street  
Cincinnati, Ohio 45202

ROSS A. WRIGHT, Esq.  
Attorney at Law  
201 East Fourth Street  
102-1800  
Cincinnati, Ohio 45202

FOR THE DEFENDANTS: KEVIN P. LUCAS, Esq.  
Attorney at Law  
USX Tower, Suite 1414  
600 Grant Street  
Pittsburgh, Pennsylvania 15219

ALSO PRESENT: MR. DANIEL DAUGHERTY, Esq.

- 0 -

STIPULATIONS:

It is stipulated by and between counsel for the respective parties that the deposition of **WILLIAM P. KOOPMANS**, a witness herein, may be taken at this time pursuant to the Federal Rules of Civil Procedure and Notice; that the deposition may be taken via Stenomask by the Notary Public/Court Reporter, and transcribed by her out of the presence of the witness; that the deposition was submitted to counsel for the witness for reading and signature.

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## CONVERGYS vs. IGATE CORPORATION, et al.

William P. Koopmans

February 12, 2004

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Q I'm sorry -- how you started to deal with her on these matters like the week after, give or take, the week following the September 17th incident. So I would like to start by -- I'd like to show you a document that was produced within the past day or so by Convergys and ask you -- and just mark it as a single document or maybe I can do this with your counsel. That may be easier.

Among the documents that were here when I arrived for your deposition today that had been delivered yesterday is a series of documents that bear the numbers 10838 through 10919. I had received electronically yesterday from Mr. Shank, together with his February 10, 2004 letter, what appears to be at least somewhat the same series of documents, but it wasn't Bates stamped, so I can't tell for sure.

So we can go through and I can ask you some questions, I'm putting out in front of you and your counsel right now the document that was included with Mr. Shank's February 11, 2004 letter to Attorney Hobbs. And I'm also going to put out before you a February 10, 2004 letter from Mr. Shank to me that was sent electronically and it was not stamped with the little numbers on the bottom, but what we did was just handwrite numbers just sequentially so we can refer to

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different pages. You'll see down in the right-hand corner one, two, three, four and that type of thing.

Maybe I could get clarification from you or Mr. Shank as to what it is these two files are. Perhaps to do this in an organized fashion, let's start first with this document, which let's mark it with the next number, please. This will be Exhibit Number 6.

MR. SHANK: What's the question, Kevin?

BY MR. LUCAS:

Q Well, let me first ask what this is. The letter says this is the Koopmans file which was located in the legal department and that it is that file in its entirety with the exception of two pages of handwritten notes by Mr. Koopmans.

So just so I know on the record, that document that's now been marked as Exhibit 6, is that, in fact, what that file is?

MR. SHANK: Let me take a stab at answering that question. The answer to your question is yes, that is what the file is. Well, let's just take it question by question, but, yes, that is what the file is.

BY MR. LUCAS:

Q Well, then let me ask the separate one, if I can do that then. I'll leave these all in order.

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That is: Then would the pile of documents that were delivered to Ms. Hobbs yesterday, which I have sitting in front of me, is the same file somewhere in here?

MR. SHANK: Yes. Yes. And maybe this will clear it up, Kevin. For the record, and I think you should have these documents, the file that's in front of the witness, Exhibit 6, has also been Bates numbered and produced to Ms. Hobbs as Bates numbers 10838 through 10903.

BY MR. LUCAS:

Q Okay. Well, then we'll deal with Exhibit 6 because that's the version that I had in advance, Mr. Koopmans. I would ask you to take a look at this. Are you familiar with this collection of documents?

A Yes.

Q And do I correctly understand that this is a file or these are documents which you maintained in a file?

A That is correct.

Q And during what period of time did you create this file?

A This is a -- a file of documentation that I had associated with the September 17th event.

Q And are you the person who decided what

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was included in this file?

A Yes.

Q Was this your work file?

A Yes.

Q And so this is a file that you maintained when, from on or about September 17th?

A Correct.

Q Until when?

A I think -- I mean, most of this stuff is probably within a month or two of the event in terms of new contribution to the file.

Q When I say or you say this is your work file, these would be things that you did, documents that you wanted to have available for your reference as part of your normal activities; is that correct?

A Correct.

Q Did you have physical possession of this file?

A Yes.

Q And was it a file?

A Yes. It was a hanging folder.

Q In like a file cabinet?

A Correct.

Q In your office?

A Yes.

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## CONVERGYS vs. IGATE CORPORATION, et al.

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1 Q Now, at some point in time this file  
2 was delivered to the legal department; is that correct?  
3 A That is correct.  
4 Q To whom in the legal department did you  
5 deliver it?  
6 A That would have been Mark Booher.  
7 Q How do you spell his last name?  
8 A B-O-O-H-E-R, I believe.  
9 Q And who is Mr. Booher?  
10 A He was Convergys legal.  
11 Q Is he still a Convergys employee?  
12 A I'm not sure. I haven't heard --  
13 MR. SHANK: He is not.  
14 BY MR. LUCAS:  
15 Q And when did you deliver this file,  
16 this collection of documents, to him?  
17 A I have no idea.  
18 Q Well, let's see if we can come up with  
19 at least some approximate idea. You would have  
20 maintained this in your office, according to your  
21 recollection, for a month -- I mean, it would have  
22 contained documents for a month or two, so you would  
23 have maintained it for at least a month or two,  
24 correct?  
25 A I -- I can narrow it down to somewhere

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1 same instruction would apply to communications  
2 between you and any of Convergys' in-house  
3 legal attorneys. So, again, if you can answer  
4 that questions without disclosing those  
5 communications, you can answer the question.  
6 THE WITNESS: Okay. He asked for the  
7 file in order to make copies.  
8 BY MR. LUCAS:  
9 Q And so you delivered it to him?  
10 MR. SHANK: That's okay.  
11 MR. LUCAS: Correct?  
12 THE WITNESS: Mm-hmm. Mm-hmm.  
13 BY MR. LUCAS:  
14 Q Now, in this file, according to the  
15 cover letter, there was two pages of handwritten notes  
16 prepared by you.  
17 A Correct.  
18 Q Is that correct?  
19 A That's correct.  
20 Q When was the last time you saw the  
21 handwritten notes?  
22 MR. SHANK: Can you clarify your  
23 question, Kevin? And tell me if you're not  
24 willing to do this, can you ask him -- are you  
25 asking him when was the last time he physically

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1 between 2000 and 2002.  
2 Q So is it fair to say at the absolute  
3 minimum you would have maintained this file for three  
4 and a half months?  
5 A Yes.  
6 Q Probably somewhere between three and a  
7 half months and 40 months?  
8 A Yes.  
9 Q Why did you deliver it to Mr. Booher?  
10 MR. SHANK: Objection. I think you're  
11 getting a little close. I don't want you to  
12 tell him anything about what Mr. Booher may  
13 have told you. For the record, Mr. Booher was  
14 in-house legal counsel at Convergys and was  
15 acting as legal counsel for Convergys on this  
16 particular matter. So if you can answer Mr.  
17 Lucas' question without telling him anything  
18 that you and Mr. Booher talked about, then you  
19 can answer the question.  
20 THE WITNESS: So can you repeat the  
21 question?  
22 BY MR. LUCAS:  
23 Q Why did you deliver this collection of  
24 documents to Mr. Booher when you delivered it?  
25 MR. SHANK: And just so I'm clear, the

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1 saw the piece of paper or when was the last  
2 time he actually read the notes?  
3 MR. LUCAS: Well, I guess I would ask  
4 both.  
5 BY MR. LUCAS:  
6 Q I mean, when was the last time you  
7 actually saw the two pages that contained handwritten  
8 notes of yours?  
9 A At a distance I saw the pages in the  
10 last month.  
11 Q And when was the last time that you  
12 actually read your notes?  
13 A That would have been sometime between  
14 September 17th and when the file was given to Mr.  
15 Booher.  
16 Q The actual handwritten notes  
17 themselves, when did you prepare them?  
18 A It was sometime -- as I recall, it was  
19 sometime late in the week of September 20th.  
20 Q Now, let me go through because we don't  
21 have a calendar and I just want to make sure that I  
22 understand. September 17th, 1999 is the date of the  
23 database corruption event, correct?  
24 A That is correct.  
25 Q That was a Friday?

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1 A Correct.  
 2 Q Monday was the 20th; is that correct?  
 3 A Correct.  
 4 Q And Tuesday the 21st was the day that  
 5 Mr. Rao's services were terminated. Is that consistent  
 6 with your recollection?  
 7 A That sounds right.  
 8 Q Using those dates as a reference, when  
 9 did you prepare the two pages of notes?  
 10 A It was likely somewhere then between  
 11 the 20th and the 23rd.  
 12 Q Do you recall whether you prepared  
 13 these notes all at once or was it a collection of  
 14 updated handwritten entries?  
 15 A It may have been -- I can't recall  
 16 precisely. It may have been one or two entries. You  
 17 know, I might have stopped and then continued where I  
 18 had left off.  
 19 Q Do you recall whether you started  
 20 making any notes here or made any of these notes prior  
 21 to the time that Mr. Rao's services were terminated?  
 22 A I believe that I started -- I believe I  
 23 started after.  
 24 Q Why did you prepare these notes?  
 25 THE WITNESS: Can I answer that?

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1 Q If I understand your testimony, the  
 2 notes would have been prepared sometime between the  
 3 20th of September and the 23rd of September, correct?  
 4 A Correct.  
 5 Q Did you review those notes with anyone  
 6 at that time?  
 7 MR. SHANK: When he was preparing the  
 8 notes?  
 9 MR. LUCAS: Yes.  
 10 MR. SHANK: Same instruction, Mr.  
 11 Koopmans.  
 12 THE WITNESS: No.  
 13 BY MR. LUCAS:  
 14 Q And you retained these notes after you  
 15 created them in the third week of September 1999 for a  
 16 minimum of three and a half months and perhaps as long  
 17 as 40 months, correct?  
 18 A Correct.  
 19 Q You did not deliver those notes to  
 20 Convergys attorneys at the time, correct.  
 21 MR. SHANK: At what time?  
 22 MR. LUCAS: In the week of 9/20 to 9/23  
 23 when you prepared them.  
 24 THE WITNESS: That is correct.  
 25 BY MR. LUCAS:

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1 MR. SHANK: You can answer that as long  
 2 as it does not disclose any communications  
 3 between you and Convergys' in-house legal  
 4 counsel. So if you can answer the question  
 5 without disclosing those communications, yes.  
 6 THE WITNESS: Well, I don't know if  
 7 that's the case.  
 8 MR. SHANK: Can I talk to the witness  
 9 on the Convergys issue?  
 10 MR. LUCAS: Sure.  
 11 (OFF THE RECORD)  
 12 BY MR. LUCAS:  
 13 Q Mr. Koopmans, you've had a chance to  
 14 confer with Mr. Shank. Frankly I don't recall what the  
 15 last pending question is. Let me put a question before  
 16 you.  
 17 The notes themselves, what did they  
 18 record? And by that I mean were you recording factual  
 19 events, things that happened according to your  
 20 recollection at the time?  
 21 A Yes.  
 22 Q Did your notes record any  
 23 communications that you had with any Convergys  
 24 attorney?  
 25 A Not that I recall.

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1 Q And you did not deliver those notes at  
 2 the time of the 9/20 to 9/23, 1999 creation to an  
 3 attorney as part of requesting advice, did you?  
 4 MR. SHANK: Objection. He did not  
 5 deliver those notes as part of requesting  
 6 advice.  
 7 BY MR. LUCAS:  
 8 Q At the time these were prepared, you  
 9 didn't even communicate them, deliver them, to a  
 10 Convergys attorney, correct?  
 11 MR. SHANK: Objection.  
 12 MR. LUCAS: Well, he's already answered  
 13 that. He didn't. So the next --  
 14 MR. SHANK: Well, if he's already  
 15 answered that then --  
 16 MR. LUCAS: Well, you didn't understand  
 17 or you didn't like the phrasing of the  
 18 question, so I was trying to rephrase it.  
 19 BY MR. LUCAS:  
 20 Q When you prepared these notes during  
 21 the third week of September of 1999, you maintained  
 22 them, you kept them and you did not deliver them to any  
 23 attorney, correct?  
 24 MR. SHANK: He did not physically  
 25 deliver them to any attorney. He's already

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1 said he hasn't.

2 MR. LUCAS: The witness appears to be  
3 thinking. I don't want to cut him off.

4 MR. SHANK: Well, I mean, you're close

5 --

6 THE WITNESS: But I did physically  
7 deliver them to Mr. Booher.8 MR. SHANK: You're close to the  
9 privilege line, counsel, so that's why I want  
10 to be careful.11 MR. LUCAS: Well, there's no privilege  
12 here and that's what this whole thing is -- I  
13 mean, that's what this whole line of  
14 questioning is to get at. There is no  
15 privilege that's applicable here.

16 MR. SHANK: I --

17 BY MR. LUCAS:

18 Q You didn't deliver them to Mr. Booher  
19 for a minimum of three and a half months and maybe as  
20 long as 40 months, correct?21 MR. SHANK: Again, I'm going to object  
22 to the statement that there's no privilege  
23 there and that's part of the question that's  
24 asked, so I'm going to object to the question  
25 as well. What's the question? He's already

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1 said he did not deliver them physically to Mr.  
2 Booher for a minimum of three and a half  
3 months. He's said that already.

4 BY MR. LUCAS:

5 Q Did you read them to Mr. Booher during  
6 the week of 9/20 to 9/23?

7 A No.

8 Q I mean, you made them and you threw  
9 them in the file so you could look at them at a later  
10 point in time; is that correct?11 MR. SHANK: Objection. Objection to  
12 form.

13 THE WITNESS: I --

14 MR. SHANK: He cannot answer the  
15 question why they were made, Kevin. For him to  
16 answer the question why they were made would  
17 violate the privilege.18 MR. LUCAS: Well, if he can't answer  
19 that question, there can't even be an assertion  
20 of privilege. Not only an inadequate assertion  
21 of privilege, there can't even be an assertion  
22 of the privilege.

23 BY MR. LUCAS:

24 Q At the time you prepared these notes,  
25 were you personally contemplating Convergys filing a

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1 claim against Mr. Rao or Mr. Rao's employer?

2 A That is not my role.

3 Q So you weren't; is that correct?

4 MR. SHANK: You can answer that.

5 THE WITNESS: Yes.

6 BY MR. LUCAS:

7 Q Did you ever tell Mr. Rao or Mr. Rao's  
8 employer at the time that you or Convergys was  
9 contemplating filing some sort of a claim against one  
10 or both of them?11 A I can't recall precisely, but I can't  
12 imagine I would ever do that.13 Q You cannot imagine it; is that what you  
14 said?

15 A That is correct.

16 Q Did anyone else that you know of within  
17 Convergys, such as Mr. Darin Brown, Mr. Ravi Kura, Mr.  
18 Neil Hulin, anyone else that was involved, did anyone  
19 else prepare notes at the time concerning the events?

20 A I do not know.

21 Q Did Mr. Booher suggest to you or direct  
22 to you that you prepare notes of your recollection of  
23 the factual events that had taken place?24 MR. SHANK: Don't answer that question.  
25 That is a privileged question.

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1 MR. LUCAS: So you're invoking the  
2 privilege and instructing him not to answer  
3 that, correct?

4 MR. SHANK: Correct.

5 BY MR. LUCAS:

6 Q After you prepared the notes, so, I  
7 mean, like in this third week of September when you  
8 were preparing these notes at that time, what steps did  
9 you take or did anyone else at Convergys under your  
10 direction or control take to preserve documents at  
11 Convergys relating to Mr. Rao's activities?12 A I guess none other than to retain  
13 everything that was existing.14 Q Well, let's talk about that. What did  
15 you retain? You retained what was in your folder; is  
16 that correct?

17 A Correct.

18 Q Did you retain anything else?

19 A Yes.

20 Q What else did you retain having to do  
21 with this incident?

22 A Electronic correspondence.

23 Q And you've turned that over to  
24 Convergys' counsel in this lawsuit, correct?

25 A Yes.

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**EXHIBIT 2 TO DEFENDANTS'  
MOTION *IN LIMINE* REGARDING  
BILL KOOPMANS' NOTES**





**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**CONVERGYS INFORMATION  
MANAGEMENT GROUP INC., et al.,**

**Plaintiffs,**

v.

**IGATE CORPORATION, et al.,**

**Defendants.**

**Case No.: C-1-01-618**

**(Judge Beckwith)  
(Magistrate Judge Sherman)**

**PLAINTIFF CONVERGYS  
INFORMATION MANAGEMENT  
GROUP, INC.'S RESPONSES AND  
OBJECTIONS TO DEFENDANTS' FIRST  
REQUESTS FOR ADMISSIONS**

Plaintiff Convergys Information Management Group, Inc. ("Convergys") hereby responds to Defendants' First Requests for Admissions (the "Admissions") as follows:

**GENERAL OBJECTIONS**

1. Convergys objects to the Admissions to the extent that they seek information subject to the attorney-client privilege, information which constitutes work product and/or information which is not otherwise subject to discovery pursuant to the Federal Rules of Civil Procedure and/or the Local Rules of the United States District Court, Southern District of Ohio.
2. Convergys objects to the Admissions to the extent that they seek to impose obligations upon Convergys which exceed those imposed by the Federal Rules of Civil Procedure.
3. Convergys objects to the Admissions to the extent that they seek information not relevant or material to the subject matter of this action and/or not reasonably calculated to lead to the discovery of admissible evidence in this action.
4. Convergys objects to the Admissions to the extent that they contain vague, ambiguous, conclusory and/or undefined terms.

20. Convergys cannot identify any of the documents pertaining to the September 17, 1999 incident which it believes its employees may have misplaced.

**RESPONSE:**

Admitted: \_\_\_\_\_ Denied:   X  

Answering further, Convergys states that it believes that most, if not all, of the misplaced documents have been recreated and produced by Convergys in this case or are described on the privilege log that has been produced to Defendants' counsel in this case. The only documents Convergys is specifically aware of that could not be reproduced and that have not been produced in this case are Bill Koopmans' handwritten notes of the events.

21. Convergys presently is not in possession of a copy of the document titled "Data Center & Technology Change Management Process, December, 1998."

**RESPONSE:** Objection. This Request is vague and ambiguous. This Request is also overly broad, unduly burdensome, unreasonable in scope, oppressive and/or requires unreasonable expense. This Request also seeks information not relevant or material to the subject matter of this action and/or not reasonably calculated to lead to the discovery of admissible evidence. In addition, pursuant to Fed. R. Civ. P. 36(a), "[c]opies of documents shall be served with the requests unless they have been or are otherwise furnished or made available for inspection and copying," which was not done in this case.

Without waiving the foregoing objections, and subject to them, Convergys has made a reasonable inquiry and responds as follows:

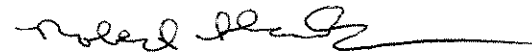
Admitted:   X   Denied: \_\_\_\_\_

22. Convergys has not produced to Defendants in this action any copy of the document titled "Data Center & Technology Change Management Process, December, 1998."

**RESPONSE:** Objection. This Request is vague and ambiguous. This Request is also overly broad, unduly burdensome, unreasonable in scope, oppressive and/or requires unreasonable expense. Convergys has produced in excess of ten thousand documents in this case. Defendants' counsel can just as easily review those documents as can Convergys and its counsel to determine whether Convergys produced a document to Defendants entitled "Data Center &

OF COUNSEL:

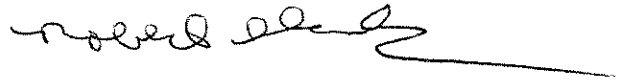
Robert D. Shank (Ohio No. 0069229)  
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2200 PNC Center  
201 East Fifth Street  
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Grant S. Cowan (Ohio No. 0029667)  
Trial Attorney for Plaintiffs  
Convergys Information Management  
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Insurance Company  
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(513) 651-6745 (direct dial)  
(513) 651-6981 (facsimile)

**CERTIFICATE OF SERVICE**

This is to certify that a copy of the foregoing Plaintiff Convergys Information Management Group, Inc.'s Responses and Objections to Defendants' First Requests for Admissions has been sent by regular U.S. mail to Donald J. Mooney and Jacqueline Schuster Hobbs, ULMER & BERNE LLP, 2800 Cincinnati Commerce Center, 600 Vine Street, Cincinnati, Ohio 45202-2409 and Kevin P. Lucas and Robert J. Williams, MANION MCDONOUGH & LUCAS, P.C., 600 Grant Street, Suite 1414, Pittsburgh, Pennsylvania 15219 this 10<sup>th</sup> day of October, 2003.



**EXHIBIT 3 TO DEFENDANTS'  
MOTION *IN LIMINE* REGARDING  
BILL KOOPMANS' NOTES**



## FROST BROWN TODD LLC

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February 10, 2004

BY UPS

Kevin P. Lucas, Esq.  
Manion McDonough & Lucas, P.C.  
USX Tower  
800 Grant Street, Suite 1414  
Pittsburgh, PA 15219

Re: *Convergys Information Management Group Inc. v. iGate Capital Corporation*

Dear Kevin:

Per our telephone conversation of today, I am enclosing a copy of the file Bill Koopmans provided to Convergys' legal department, which we thought had been lost. At a meeting today with Bill and others from Convergys, the Koopmans file was located in the legal department's file on this case, apparently having been previously overlooked. I have enclosed a copy of all of the documents in the file, with the exception of two-pages of handwritten notes prepared by Bill Koopmans at the request of a Convergys in-house lawyer. I believe those notes would be privileged, but understand that you may want to question Bill at his deposition concerning the circumstances surrounding the creation of the notes.

Very truly yours,

A handwritten signature in black ink, appearing to read "Grant S. Cowan".

Grant S. Cowan

GSC/gc  
Enclosure

CinLibrary/1366887.1

**EXHIBIT 4 TO DEFENDANTS'  
MOTION *IN LIMINE* REGARDING  
BILL KOOPMANS' NOTES**





UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION

CONVERGYS INFORMATION  
MANAGEMENT GROUP, INC.,  
et al.,

Plaintiffs,

v.

IGATE CAPITAL ORPORATION,  
et al.,

Defendants.

Civil Action No. C-1-01-618

Magistrate Hogan

AFFIDAVIT OF JACQUELINE  
SCHUSTER HOBBS IN SUPPORT  
OF DEFENDANTS' MOTION IN  
LIMINE REGARDING CERTAIN  
NOTES PREPARED BY  
CONVERGYS EMPLOYEE BILL  
KOOPMANS

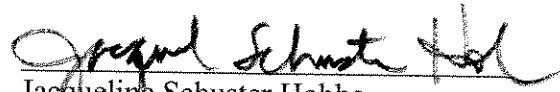
STATE OF OHIO :  
: SS:  
COUNTY OF HAMILTON :

Jacqueline Schuster Hobbs, being duly sworn, deposes and states as follows:

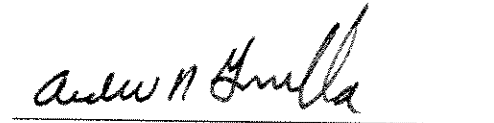
1. I am local counsel for the defendants in this litigation and make this Affidavit in support of defendants' Motion *in Limine* regarding certain notes prepared by Bill Koopmans, an employee of plaintiff Convergys Information Management Group, Inc. I have personal knowledge of the facts contained in this Affidavit.

2. On Friday, March 19, 2004, I contacted Robert Shank, one of the attorneys for plaintiffs in this litigation. Mr. Shank confirmed that plaintiffs' position with respect to the notes prepared by Mr. Koopmans had not changed; that is, plaintiffs believe the notes are privileged and not subject to disclosure.

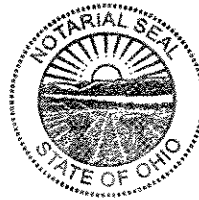
FURTHER AFFIANT SAYETH NAUGHT.

  
Jacqueline Schuster Hobbs

Sworn to and subscribed before me this 23<sup>rd</sup> day of March, 2004.

  
Notary Public

My Commission Expires: \_\_\_\_\_



ANDREW RAPHAEL GIANNELLA  
Attorney at Law  
Notary Public, State of Ohio  
My Commission Has No Expiration  
Section 147.03 R.C.